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SUBJECT: VIETNAM: DAUSTR BRYAN AND VICE MINISTER OF TRADE
TALK BTA AND WTO.

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Ref (A) Hanoi 584
(B) Hanoi 794
(C) Hanoi 817

¶11. (SBU) Summary: During a meeting April 11 with Deputy Assistant USTR, Elena Bryan, Vice Minister of Trade Luong Van Tu highlighted efforts Vietnam has made to implement its obligations under the U.S. - Vietnam Bilateral Trade Agreement (BTA), suggested holding the BTA JC Chairman's meeting in May, asked the USG to increase quotas on Vietnam's textile and garment exports and requested that the United States host another round of WTO bilateral negotiations in Washington before the next WTO Working Party meeting in Geneva in late May. DAUSTR Bryan noted that Vietnam's efforts to implement its international obligations should help with Vietnam's desire to attract additional investment. She reminded the Vice Minister that Vietnam needs to submit draft legislation and implementing regulations to the WTO as soon as possible. Finally, she advised the Vice Minister that the United States needs to receive a revised services offer in writing before it can begin to discuss a date for the next round of WTO bilateral negotiations. She also noted that the United States would need time to consult with advisors once the offer is received. End Summary.

¶12. (U) On April 11, prior to the "expert level" meeting of the BTA Joint Committee, DAUSTR Bryan, accompanied by USPTO Attorney-Advisor, Jennifer Ness, U.S. Copyright Office Policy Planning Advisor Steven Tepp, Econ/C and Econoffs from Hanoi and HCMC, called on VM Tu to discuss the status of BTA implementation. (Note: The BTA JC meetings will be reported septel. End Note.) The tone of the meeting was very upbeat, with the Vice Minister emphasizing the positive impact the BTA has had on bilateral relations. In particular, he cited strong growth in direct and indirect bilateral trade over the past year, the presence of "hundreds of U.S. companies" operating in Vietnam and the surplus in U.S. services exports to Vietnam as examples of positive developments.

Vietnam: Progress on BTA Implementation

¶13. (SBU) VM Tu specifically highlighted the progress the GVN has made in implementing BTA obligations in the areas of transparency and the protection of intellectual property rights (IPR). With respect to transparency, the VM pointed out that GVN drafters of laws and regulations regularly seek out opinions from stakeholders, including foreign companies. He also explained that National Assembly discussions are open to the public and the GVN publishes its legislation in the Official Gazette, in local media and on GVN agency websites. Improving transparency is part of Vietnam's reform process, the VM asserted. The GVN has set up a committee responsible for reviewing all documents and simplifying legislative procedures. Vietnam has made significant progress in bringing its procedures in line with BTA and WTO transparency standards, the VM added. On IPR, VM Tu noted that Vietnam has joined the Berne Convention and promulgated regulations to bring Vietnam into compliance with Berne requirements. However, he said, Vietnam still has "some problems in the area of IPR."

¶14. (SBU) VM Tu also cited improvements Vietnam has made in increasing market access opportunities for U.S. companies, in some cases ahead of the BTA implementation schedule. The GVN provided MFN tariff treatment to U.S. goods two years before the BTA took effect, he said. Additionally, there are more than seventy 100 percent U.S. companies operating in Vietnam now. In insurance services, the GVN has issued one 100 percent investment license to an American insurance company and has committed to issue two more licenses to U.S. companies soon. Finally, the VM affirmed that Vietnam has implemented its BTA obligations in the banking sector, although only two U.S. banks have a presence in Vietnam.

(Note: The VM attributed the small number of U.S. banks to the lack of strong OPIC presence in Vietnam. However, OPIC has been active in Vietnam since 1998. End Note.) The Vice Minister added that the GVN would like the USG to "create favorable conditions for Vietnamese companies to do business in the United States." "I have received criticisms from Vietnamese banks that have been unable to get approval to set up representative offices in the United States," he complained.

15. (U) DAUSTR Bryan responded that the United States has also taken efforts to facilitate bilateral economic relations. The USG applied MFN and national treatment to Vietnam in all areas except tariffs well before the BTA came into effect. With respect to U.S. investment in Vietnam, DAUSTR Bryan explained, U.S. companies are careful to ensure that investment conditions are good before investing in a new market like Vietnam. U.S. companies have become more comfortable investing in Vietnam in the last few years, partly because of the BTA. However, they are still looking for signals that the investment climate is improving - including better IPR protection, fewer restrictions on investment and a court system that enforces contracts. As Vietnam continues to implement its international obligations and bolster its judicial system, it will likely see an increase in U.S. investment, DAUSTR Bryan added.

16. (SBU) On insurance, DAUSTR Bryan noted, approval of long-pending insurance licenses will send a positive signal to the world financial community and help to encourage other investment in Vietnam. However, she noted, there is a perception in the United States that Vietnam applies different rules to companies from different countries and that the GVN trades market access in one sector for access in another. In the United States, there are no licensing requirements; Vietnamese companies are free to invest and face the same regulatory rules as all other companies, she stated.

17. (SBU) With respect to banking, DAUSTR Bryan explained that after September 11, the USG implemented regulations requiring the home countries of banks to have anti money-laundering regulations in place before they could establish representative offices in the United States. These rules apply to banks from all countries on an MFN basis, she noted. The VM immediately expressed strong support for U.S. efforts to combat terrorism and money laundering and reported that the GVN has submitted a draft anti money-laundering decree to the Prime Minister for approval. DAUSTR Bryan asked the Vice Minister to provide a copy of the draft regulation as soon as possible. (Note: the Embassy has repeatedly requested a copy of the draft decree on money-laundering from the GVN without success for over a year. End Note.)

18. (SBU) The Vice Minister suggested the two sides hold the Chairman (Vice Minister) level meeting of the BTA JC in May (Note: VM Tu was anticipating WTO bilaterals in Washington in May. End Note.) DAUSTR Bryan responded that, should the VM be in Washington for other reasons, this sounded possible, but she would need to check the schedule of the appropriate Deputy USTR.

WTO Accession

19. (SBU) Turning to Vietnam's WTO accession, VM Tu said he was aware that the USG is concerned about Vietnam's ability to complete the legislative requirements for WTO. The GVN has decided it needs to speed up the legislative process, he assured her. The Government has identified ten existing laws and ordinances that need to be revised and fourteen new laws and ordinances that need to be drafted in order to meet WTO requirements. This legislation was included in the legislative action plan the GVN sent to the WTO Secretariat and the USG for review last week (Reftel B). The VM added that the National Assembly (NA) has agreed to work to approve all of this legislation in 2005 and will extend the length of its two regularly scheduled sessions this year and/or add an additional session if necessary to complete the task at hand.

10. (SBU) DAUSTR Bryan pointed out that although the WTO Working Party has made it very clear that it wants to see drafts of all laws, regulations and implementing regulations before they are approved, Vietnam has not yet sent any drafts to the WTO for review. In fact, the GVN's latest submission to the WTO Secretariat contained only two laws: the Law on Minerals and the Anti-Dumping Law. (Note: Both of these laws were final versions. End Note.) The VM noted that the Prime Minister recently issued instructions on preparing draft legislation, translating the drafts and submitting them to the WTO (reftel C). The GVN is very focused on translating draft legislation at this time, he said. As soon as the drafts are ready, Vietnam will begin submitting them to the WTO.

Next Round of Bilats

¶11. (SBU) VM Tu then reiterated the written request he had sent to the Ambassador (reftel B) for the United States to host another round of WTO bilateral market access negotiations in Washington at the end of April. DAUSTR Bryan expressed appreciation for the work the GVN has done and for the constructive round of talks held in Washington in March. However, while the USG has Vietnam's revised tariff offer, as has been discussed in previous meetings, it will not begin to consider scheduling another round of bilaterals until Vietnam provides a revised services offer in writing. Once the offer is received, the USG will need least four weeks to review it and consult with U.S. industry. Given that, late April or early May is not a realistic time frame for the next round of negotiations, DAUSTR Bryan concluded. The Vice Minister responded that the GVN will send the services offer "this week." Conceding the point on the April timeframe, VM Tu requested that bilats be held "sometime" before the next WTO Working Party scheduled for late May. DAUSTR Bryan committed to convey this information to AUSTR Dorothy Dwoskin.

Textile Quotas

¶12. (SBU) VM Tu also requested the USG consider increasing the size of U.S. quotas on Vietnam's exports of textiles and apparel. Both Vietnamese and U.S. companies have complained that Vietnam is disadvantaged because its textile and garment exports to the United States are still subject to quota, he explained. DAUSTR Bryan responded that the United States is not in a position to remove the quotas until Vietnam accedes to the WTO.

¶13. (U) DAUSTR Bryan cleared this cable.

MARINE